

## **REMARKS**

Please enter rewritten claims 1, 5, 6, 8, and 11. Please cancel claims 2, 7, 10, and 12-20 without prejudice or disclaimer. Please add claim 21.

### **I. ELECTION/RESTRICTION**

The Office has indicated that restriction to one of the following inventions is required under 353 U.S.C. 121:

I. Claims 1-11, drawn to a modular clothing apparatus, classified in class 2, subclass 67.

II. Claims 12-20, drawn to method of assembling modular clothing, classified in class 128, subclass 898.

The Office has noted the 05/08/2005 telephone conversation with John D. Long, patent counsel of record, in which the Office requested a provisional election to prosecute either the invention of group I claims (claims 1-11 generally pertaining to modular clothing apparatus) or the invention of group II claims (claims 12-20 generally pertaining to method of assembling modular clothing). The Office required further election if Group I was elected, between claim 10 generally pertaining to a brassiere style clothing and claims 1-9, 11 generally pertaining to bikini style clothing. At that time, patent counsel elected to group I and within group I, elected claims 1-9, 11. The Office now requests affirmation of this Election in the present Response.

Accordingly, Applicant respectfully confirms the Election of Group I claims 1-9, 11 and the withdrawal from consideration of claims 10, 12-20. Applicant also sets forth that none of the existing claim 1-8, and 11 nor added claim 21 reads upon the elected species of claim 9.

## **II. DRAWINGS**

The Office noted that drawings were objected to because they did not show the “attachment apparatus” (as claimed in dependent claim 11) as having at least two different sides.

The Applicant thanks the Examiner for pointing out this informality and apologizes for any inconvenience that the informality caused. The Applicant respectfully points out that Office held that the dependent claim 11 claimed an “attachment apparatus” and the term “attachment apparatus” generally lacks antecedent basis to the Independent claim 1 from which dependent claim 11 descends and the term “attachment apparatus” is not properly referenced in the Specification. Accordingly, the Applicant respectfully requests amendment to claim 11 replacing the term “attachment apparatus” with the term “securing mechanism”, reference numeral 16.

As noted on page 8, lines 9, 10, 11 and shown in figure 2, the “securing mechanism” 16 may further comprise of a two-sided strap 21 wherein the sides of the strap 21 have different fashions from one another as well as the from the sides of the panels 12. Because of this requested amendment to claim 11, the Applicant believes that the drawings do not need to be amended and respectfully requests that the Office reconsider and withdraw this requirement.

## **III SPECIFICATION**

The Office indicated that it objected to the disclosure because of the following informality that there was no reference to the “attachment apparatus” of claim 11.

As indicated above, the Applicant has requested amendment to claim 11 to delete the term “attachment apparatus” and replace it with the term “securing mechanism”. The term “securing mechanism” 16 may be initially referenced in the Specification at page 7, lines 20-25. As such, the Applicant

respectfully requests that the Office reconsider and withdraw its objection to the Specification.

#### **IV CLAIM OBJECTIONS**

##### **Claim 11**

The Office indicated that Claim 11 was objected to because the term “attachment apparatus” has no antecedent basis in independent claim 1 and requested appropriate action.

The Applicant thanks the Examiner for pointing out this informality and apologizes for any inconvenience that the informality caused. As stated above, the Applicant has requested amendment of claim 11 to replace the term “attachment apparatus” with the term “securing mechanism”. Because the term “securing mechanism” does have antecedent basis in independent claim 1, the Applicant respectfully requests that the Office reconsider its objection to claim 11 as now amended.

##### **Claim 2**

The Office indicated that Claim 2 was objected to because the claim 2 lacked language to indicated whether or not it was dependent on independent claim 1. The Office requested appropriate action.

The Applicant thanks the Examiner for pointing out this informality and apologizes for any inconvenience that the informality may have caused. The Applicant has cancelled claim 2 and has included its limitations within amended independent claim 1. Because Applicant has requested cancellation of claim 2, the Applicant respectfully requests that the Office reconsider and withdraw its objection.

##### **Claim 6 and 7**

The Office indicated that Claim 6 and 7 were objected to in that it is unknown how all the back sides

have a different appearance from one another and from the front sides with the back sides having the same range of appearances as the front sides. The Office requested appropriate action.

The Applicant thanks the Examiner for pointing out this informality and apologizes for any confusion that the informality may have caused. The Applicant has cancelled claim 7 having the limitation referring to “the same range of appearances as the front sides”. Because Applicant has requested cancellation of claim 7, the Applicant respectfully requests that the Office reconsider and withdraw its objection to claim 6.

#### **V. REJECTION UNDER 35 U.S.C. §102(b)**

The Office has rejected claims independent claim 1 and its dependent claims, 3, 4, 9 and 11 as anticipated under 35 U.S.C. §102 by Estruch et al (US 5,902,575). In particular to independent claim 1, the Office has held that Estruch '575 teaches modular clothing for use as swimwear which comprises at least one panel having at least a front side and a back side with one side of the at least one panel being used to cover a private portion of the wearer. An attachment mechanism (column 2, lines 11-38 of 'Estruch 575) for attaching at least one panel to a securing mechanism. The securing mechanism is capable of reversibly securing at least one panel to the wearer.

The Applicant has amended independent claim 1 to add the additional limitation of the attachment mechanism being removable from both the panel and the securing mechanism. As shown in the present specification, page 7, lines 26-29 that the attachment mechanism 15 can be a sliding clasp loop 17 that reversibly engage securing apertures 20 of the panels 17 (e.g., bust holders) and securing mechanisms 16 (e.g., attachment straps 21) to hold the panels and securing mechanisms together (present Specification page 8, lines 1-5). In this manner, the attachment mechanism can be removed from both panels and the securing mechanism.

This limitation is not found in Estruch '575. Column 2, lines 11-38 of 'Estruch 575 may describe binding tapes (10, 11 in Estruch '575-e.g., attachment mechanism) being attached to the periphery of the panel of the 'Estruch 575 swimwear to generally attach the ties (e.g., securing mechanism) for holding the panels onto the wearer. The binding tapes of 'Estruch 575 are permanently sewn onto the periphery of the panels and are not removable.

Additionally, this limitation is not taught in Kuehner US Patent No. 5,083,316 (Kuehner '316) wherein the Office found that independent claim 1 was rejected under 35 U.S.C. 103(a) as being obvious in view of 'Estruch 575. The Office held that Kuehner '316 in view of 'Estruch 575 teaches an attachment mechanism capable for reversibly securing on panel to a securing mechanism (column 3, lines 34-39). Kuehner '316 denotes the use of a first and second cooperative or complementary fastening elements that could be argued to be a securing mechanism, which by their nature are permanently attached to their respective panel (which could be argued to be a securing mechanism as well as a panel).

The Applicant respectfully argues that since independent claim 1 has been amended to include a limitation which is not found in the cited prior art of Kuehner '316 and 'Estruch 575, then independent claim 1 is allowable as well as the dependent claims (claims 5, 6, 8, 11 and 21.)

## **VI. REJECTION UNDER 35 U.S.C. §103**

The Office has rejected independent claim 1 and its dependent claims 2, and 5-8 as being obvious under 35 U.S.C. §103(a) as being unpatentable over Kuehner '316 in view of Estruch '575. In regard to independent claim 1, the office held that Kuehner '316 teaches modular clothing for use as swimwear which comprises at least one panel having at least a front side and a back side with one side of the at least one panel being used to cover a private portion of the wearer. An attachment mechanism for attaching at least one panel to a securing mechanism. A securing mechanism is capable of

reversibly securing at least one panel to the wearer.

For the reasons discussed above, the Applicant respectfully argues that since independent claim 1 has been amended to include a limitation which is not found in the cited prior art of Kuehner '316 and Estruch 575, then independent claim 1 is allowable as well as its dependent claims (claims 5, 6, 8, 11 and 21.)

### CONCLUSION

With the above amendments and argument, the Applicant believes that it has fully responded to the Office's stated rejections and submits that the present application is in condition for allowance. If the Examiner has any questions regarding the application or this Amendment A, the Examiner is encouraged to call the Applicant's patent counsel of record, John D. Long, at (775) 827-8767 (PST). As such, the Applicant respectfully requests that the Office, in consideration of the above amendments and argument, rescind its rejections to the above application and place the application in position for issuance.

The Applicant thanks the Examiner for her time and effort in this matter.

Respectfully submitted by  
the Patent Counsel for the Applicant



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